

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

May 30, 2007

DIVISION ONE

B181333 Edward M. Czucker (Not for Publication)
 v.
 Ernst & Young

The judgment is reversed. On remand, the trial court is directed to enter a new order: (1) sustaining the demurrer without leave to amend to the cause of action for negligent misrepresentation, and (2) overruling the demurrer to the cause of action for intentional misrepresentation and affording Czucker a reasonable time to file an amended pleading for intentional misrepresentation as to Czucker's "holder's action" involving his April 2000 investment of \$500,000 in PreNet Fund I, L.P. Ernst & Young's request for judicial notice is denied. The parties are to bear their own costs on appeal.

Mallano, Acting P.J.

We concur: Vogel (Miriam A.), J.
 Jackson, J. (Assigned)

B190711 Eternity Investments, Inc. (Certified for Publication)
 v.
 Michael Brown et al.

The judgment is affirmed.

Mallano, Acting P.J.

We concur: Vogel (Miriam A.), J.
 Jackson, J. (Assigned)

May 30, 2007 (Continued)

DIVISION ONE (continued)

B194831 People (Not for Publication)

V.

Armando Contreras Jr.

The judgment is affirmed.

Rothschild, J.

We concur: Mallano, Acting P.J.

Vogel (Miriam A.), J.

B191046 Roland (Not for Publication)

V.

Nursing HomeSolutions, Inc. et al.

The order is affirmed.

Mallano, Acting P.J.

We concur: Vogel (Miriam A.), J.

Rothschild, J.

B189446 People (Not for Publication)

V.

Silva

The sentence is vacated and the case is remanded for resentencing. In all other respects the judgment is affirmed.

Rothschild, J.

We concur: Vogel (Miriam A.), Acting P.J.

Jackson, J. (Assigned)

DIVISION ONE (continued)

B189957 People (Not for Publication)

V.

Martinez and Hernandez

The order awarding each defendant 56 days of conduct credit is reversed and the judgment is modified to award each defendant 186 days of conduct credit. The case is remanded to the trial court with directions to prepare an amended order and abstract of judgment so stating, and to forward a copy of the amended abstract to the Department of Corrections. In all other respects, the judgment is affirmed.

Rothschild, J.

We concur: Mallano, Acting P.J.

Vogel (Miriam A.), J.

B189446 People (Not for Publication)

V.

Silva

The sentence is vacated and the case is remanded for resentencing. In all other respects the judgment is affirmed.

Rothschild, J.

We concur: Vogel (Miriam A.), Acting P.J.

Jackson, J. (Assigned)

May 30, 2007 (Continued)

DIVISION TWO

B195563 Elbaz (Not for Publication)

V.

Beverly Hills Unified School District

The order of the trial court is affirmed. BHUSD is entitled to costs on appeal.

Ashmann-Gerst, J.

We concur: Boren, P.J.

Doi Todd, J.

B187256 Hollywood Screentest of America, Inc., et al.

V.

NBC Universal, Inc., et al.

Filed order certifying opinion for publication.

DIVISION THREE

B196280 Andreas H. et al (Not for Publication)

V.

Superior Court, Los Angeles County

(Los Angeles County Department of Children and Family Services, r.p.i.)

The writ petitions are denied.

Klein, P.J.

We concur: Croskey, J.

Kitching, J.

DIVISION THREE (continued)

B166344 People (Not for Publication)

V.

Jared Jacob Standish

The superior court's order setting aside the information is reversed. The matter is remanded for further proceedings consistent with the opinions expressed herein.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

B184096 People (Not for Publication)

V.

Eric Martin George

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B193566 Los Angeles Unified School District (Certified for Publication)

V.

Superior Court, Los Angeles County
(City of Long Beach, a municipal corporation et al, r.p.i.)

The request for a writ is denied. The stay issued on October 3, 2006 is vacated. Costs on appeal are awarded to City of Long Beach.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

May 30, 2007 (Continued)

DIVISION THREE (continued)

B190950 Michael Faust
v.
California Portland Cement Co.

Filed order denying petition for rehearing.

DIVISION FOUR

B189667 People (Certified for Partial Publication)
v.
Tena

The judgment is reversed with respect to the imposition of the upper term on appellant's conviction under section 273.5, subdivision (a), and the matter is remanded for resentencing in accordance with this opinion. Upon resentencing, the trial court is directed to prepare an amended abstract of judgment reflecting the changes in the appellant's presentence custody credits described above (see section E, *ante*) and to forward it to the Department of Corrections. In all other respects, the judgment is affirmed.

Manella, J.

We concur: Epstein, P.J.
Suzukawa, J.

DIVISION FOUR (continued)

B189018 Fox (Not for Publication)

v.

Hacienda Escrow Corp. et al.

The orders quashing service of process are reversed with respect to respondents Patrick and Remax. In all other respects the orders are affirmed. Watts, Abacus, and Spigle/Summers are awarded their costs on appeal from Fox. Fox is awarded her costs on appeal from Patrick/Remax.

Manella, J.

We concur: Epstein, P.J.
Willhite, J.

DIVISION FIVE

B186001 Thomas Lewinski (Not for Publication)

v.

Martin Blank Jr. et al

The judgment is affirmed. Respondent(s) to recover costs.

Turner, P.J.

We concur: Armstrong, J.
Mosk, J.

DIVISION SIX

B188797 People (Not for Publication)
v.
Pacheco, et al.

The judgment is reversed only as to the sentence and in all other respects is affirmed. The matter is remanded to the trial court for resentencing in accordance with the views expressed in this opinion. In resentencing appellants, the trial court shall: (1) as to Villegas, strike the gang enhancements (§§ 186.22, subds. (b)(1)(C) & (b)(4)(B)) on counts 1 (attempted murder of Shoemaker), 3 (kidnapping to commit robbery), and 5 (carjacking); (2) as to Pacheco, strike the 10-year gang enhancement (§ 186.22, subd. (b)(1)(C)) imposed on count 3 and instead impose a minimum parole eligibility date of 15 calendar years (§ 186.22, subd. (b)(5)); (3) as to Villegas, impose a minimum parole eligibility date of 15 calendar years on count 2 (attempted murder of Yon) (§ 186.22, subd. (b)(5)); (4) as to all appellants, stay execution of the sentences imposed on count 5 (carjacking), including the 25-year-to-life enhancements imposed pursuant to section 12022.53, subdivisions (d) and (e)(1); (5) as to all appellants, stay execution of the sentences imposed on count 6 (discharging a firearm from a vehicle), including the 25-year-to-life enhancements imposed pursuant to section 12022.53, subdivisions (d) and (e)(1); (6) as to all appellants, stay execution of the 25-year-to-life enhancements, imposed pursuant to section 12022.53, subdivisions (d) and (e)(1), on count 3; (7) as to Pacheco and Villegas, select the appropriate term of imprisonment for the offenses in counts 1 and 6 pursuant to the principles of *Cunningham*; and (8) as to all appellants, grant presentence conduct credits pursuant to sections 2933.1 and 4019. The court is directed to prepare amended abstracts of judgment and to forward certified copies to the Department of Corrections.

Yegan, J.

We concur: Gilbert, P.J.
Perren, J.

May 30, 2007 (Continued)

DIVISION SIX (continued)

B194112 People (Not for Publication)

Valdez

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Yegan, J.

B192109 Akkerman (Not for Publication)

V.

Mecta Corporation, Inc.

The order is affirmed. Costs on appeal are awarded to respondent.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B192816 People (Not for Publication)

B194071 v.

Robles

We grant the petition for writ of mandate and reverse the judgment of conviction with directions to grant Robles' motion to withdraw the guilty plea.

Perren, J.

I concur: Gilbert, P.J.
I dissent: Yegan, J. (Opinion)

May 30, 2007 (Continued)

DIVISION SEVEN

B196728 James M., (Not for Publication)
v.
Superior Court, Los Angeles County

The petition is denied on the merits.

Johnson, Acting P.J.

We concur: Woods, J.
Zelon, J.

DIVISION EIGHT

Court convened at 9:00 a.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Emma Jean Amos, Deputy Clerk.

Each of the following:

B190013 People v. Martinez
B193818 DCFS v. Martha N.
B190663 People v. Henning
B186416 Dodson v. J. Pacific, Inc. et al.
B193658 DCFS v. Darla M.

Argument waived, cause submitted.

B192288 Soles
v.
Gonzales

Merits:
Argued by Lance Greene for appellant and by Randal S. Oakley for respondent. Cause submitted.

DIVISION EIGHT (continued)

B193312 Gardner
 v.
 Landeros

Merits:

Argued by Howard Levy for appellant and by Derek Tabone for respondent. Cause submitted.

Cooper, P.J. leaves the bench.

B186011 Regency Outdoor Advertising, Inc.,
 v.
 City of West Hollywood
 Elevation Media, Inc. et al.,

Merits:

Argued by Greg Regier for appellant, by John C. Cotti for respondent and by Gary S. Mobley for real parties in interest. Cause submitted.

Court recessed at 10:38 a.m.

Court convened at 10:56 a.m.

Present: Cooper, P.J., Boland, J., Flier, J. and Emma Jean Amos, Deputy Clerk.

B178509 People
 v.
 Rathbun

Merits:

Argued by Vanessa Place for appellant and by Deborah J. Chuang, Deputy Attorney General for respondent. Cause submitted.

DIVISION EIGHT (continued)

B193051 Gonzales
 v.
 Pacific Specialty Insurance Company

Merits:
Argued by A. Mastroianni for plaintiff/appellant and by Michele Burton for defendant/appellant. Cause submitted.

Court recessed.

Court reconvened at 1:00 p.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Emma Jean Amos, Deputy Clerk.

B190000 People
 v.
 Parra

Merits:
Argued by William Flenniken for appellant and by Yun Lee, Deputy Attorney General for respondent. Cause submitted.

B192302 People
 v.
 Jackson

Merits:
Argued by Willian Flenniken for appellant and there being no appearance by counsel for respondent. Cause submitted.

DIVISION EIGHT (continued)

B188427 Walker et al.,
v.
Farmers Insurance Exchange

Merits:

Argued by Andrew N. Chang for plaintiff and appellant and by Mitchell C. Tilner for Defendant and appellant. Cause submitted.

Rubin, J. leaves the bench.

B191412 People
v.
Turcios

Merits:

Argued by Scott D. Collins, Deputy District Attorney for appellant and by Stephen A. King for respondent. Cause submitted.

Each of the following:

B184689 Chrisman v. City of Los Angeles et al.,
B189961 Doty et al., v. Meruelo et al.,
B187647 Horn v. Hoffman et al.,

Oral argument continued to June 28, 2007, at 9:00 a.m.

B194542 Los Angeles County, D.C.S.
v.
James M. et al.,

Oral argument continued to June 28, 2007, at 10:30 a.m.

May 30, 2007 (Continued)

DIVISION EIGHT(continued)

B192842 Ball
 v.
 Westfield Corporation et al.,

Oral argument continued to August 1, 2007, at 10:30 a.m.

Court adjourned.

B182885 Manco Contracting Co. (W.L.L.), (Certified for Publication)
 v.
 Bezdkian,

The judgment is reversed and the case is remanded to the trial court.
Manco shall recover costs on appeal.

Cooper, P.J.

We concur: Boland, J.
 Flier, J.